

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA,

5:20-cr-50044

Plaintiff,

vs.

FACTUAL BASIS STATEMENT

JENNIFER DURHAM,

Defendant.

The Defendant states the following facts are true, and the parties agree that they establish a factual basis for the offense to which the Defendant is pleading guilty pursuant to Fed. R. Crim. P. 11(b)(3).

Overview – Scheme to Defraud (Rapid City Rush)

At all times relevant to the Information, the defendant, Jennifer Durham ("Durham"), was a resident of South Dakota and employed as the office manager for Rapid City Professional Hockey, LLC ("RCPH"), a company operating under the trade name for a professional hockey team located in Rapid City, South Dakota, the Rapid City Rush.

Durham was the office manager for RCPH from approximately 2008 through June 2019. As part of her duties, Durham was responsible for maintaining the business accounting records, recording and depositing cash receipts, and generating financial reports.

Beginning on or about February 2010 and continuing until on or about June 2019, Durham devised and intended to devise a scheme and artifice to defraud RCPH and enrich herself.

As part of the scheme and artifice to defraud, Durham made fraudulent payments to herself in excess of her salary agreement without permission and unbeknownst to RCPH. Durham falsely classified the excess payments, totaling \$11,132.33 as mileage reimbursements or sales commissions in RCPH's accounting records.

In furtherance of the scheme and artifice to defraud, Durham made unauthorized wire transfers totaling \$284,717.99 from RCPH's bank account at Black Hills Community Bank to pay her personal American Express credit cards. To conceal these fraudulent transfers, Durham falsely reported the payments as legitimate business expenses in RCPH's accounting records.

In furtherance of the scheme and artifice to defraud, Durham made unauthorized interbank transfers totaling \$181,464.91 from RCPH's bank account at Black Hills Community Bank to personal bank accounts at Black Hills Community Bank that Durham controlled or had access to, including accounts for Durham, her daughter, or a nominee entity Lil Cav's Wrestling. To conceal the fraudulent payments in RCPH's accounting records, Durham falsely reported the payments as legitimate business expenses, such as credit card or equipment payments.

In furtherance of the scheme and artifice to defraud, Durham also fraudulently diverted \$214,971.86 of RCPH's cash receipts for personal use.

RCPH received the cash from ticket sales or promotional events at hockey games and authorized the funds to be used for RCPH's operations, including payments for travel expenses or cash bonus payments to hockey players "off the books." As the office manager, Durham was responsible for counting and recording the cash receipts. To conceal the cash she diverted for personal use, Durham made false entries in RCPH's accounting records indicating there were business-related expenses that offset cash receipts.

In furtherance of the scheme and artifice to defraud, Durham made unauthorized payments totaling \$7,712.91 from RCPH's bank account at Black Hills Community Bank to Verizon Wireless for her family's personal telephone expenses. The payments were made without permission and unbeknownst to RCPH.

In total, Durham embezzled \$700,000.00 from RCPH during the period February 2010 through June 2019.

Wire Fraud – Count 1

On or about July 30, 2012, under fraudulent pretenses and using interstate wire communications, Durham initiated a \$969.98 electronic withdrawal from RCPH's checking account at Black Hills Community Bank to pay Durham's personal credit card account at American Express. The withdrawal was not authorized by RCPH and was for the personal benefit of Durham. Durham attempted to conceal the payment by omitting information in RCPH's accounting records as to the true nature and purpose of the transaction.

Wire Fraud – Count 2

On or about June 10, 2019, using fraudulent pretenses and using interstate wire communications, Durham initiated a \$750.00 interbank transfer from RCPH's checking account at Black Hills Community Bank to the checking account for Lil Cav's Wrestling at Black Hills Community Bank. The transfer was not authorized by RCPH and was for the personal benefit of Durham. Durham attempted to conceal the payment by omitting information in RCPH's accounting records as to the true nature and purpose of the transaction.

In total, under fraudulent pretenses and using interstate wire communications, Durham diverted funds or conducted unauthorized withdrawals of \$700,000.00 from RCPH.

Tax Evasion – Count 3

At all times relevant to the Information, Durham was a resident of Rapid City, South Dakota. Durham knowingly and willfully attempted to evade or defeat a tax imposed under the Internal Revenue Code and the payment of that tax, to wit: Durham engaged in affirmative acts to evade the assessment of taxes on her 2018 federal income tax return. One such act occurred on or about February 12, 2019, in the District of South Dakota, when Durham knowingly filed a personal income tax return that understated her income by \$136,275.26. Durham also falsified RCPH's accounting records to conceal her true income from being reported to the Internal Revenue Service on tax reporting documents. As a result of Durham's fraudulent conduct, a tax loss of \$34,528.00 is due and owing for the 2018 year.

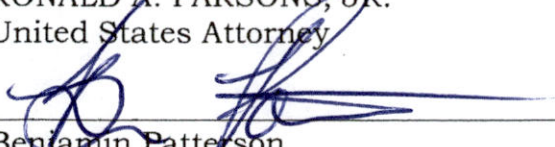
Durham also knowingly and willfully attempted to evade or defeat taxes imposed under the Internal Revenue Code for 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017 related to her personal income tax returns. In total, Durham attempted to evade or defeat her personal income taxes in the following amounts:

Year	Unreported Gross Income	Tax Loss for Criminal Purposes
2010	\$15,918.40	\$3,335.00
2011	\$19,683.09	\$5,400.00
2012	\$52,496.67	\$11,895.00
2013	\$77,215.71	\$22,617.00
2014	\$81,031.06	\$23,188.00
2015	\$81,494.91	\$22,446.00
2016	\$98,193.00	\$27,446.00
2017	\$126,559.57	\$35,422.00
2018	\$136,275.26	\$34,528.00
Total:	\$688,867.67	\$186,277.00

Date

6/30/2020

RONALD A. PARSONS, JR.
United States Attorney


Benjamin Patterson
Assistant United States Attorney
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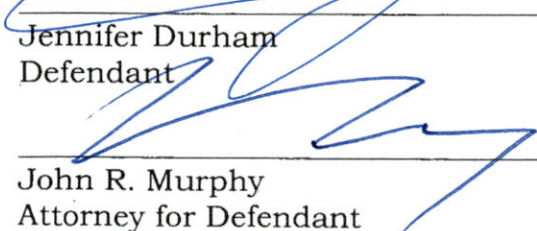
Date

6/22/2020


Jennifer Durham
Defendant

Date

6/25/20


John R. Murphy
Attorney for Defendant